

Panaji, 7th April, 1988 (Chaitra 18, 1910)

SERIES I No. 1

# OFFICIAL GAZETTE

## GOVERNMENT OF GOA

### GOVERNMENT OF GOA

Legislature Department

LA/B/193/1988

Dt. 15/1/1988

The following Bill which was introduced in the Legislative Assembly of Goa on 11-1-1988 is hereby published for general information in pursuance of the provisions of Rule-136 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

#### The Goa University (Amendment) Bill, 1988

(Bill No. 7 of 1988)

A

#### BILL

*further to amend the Goa University Act, 1984.*

Be it enacted by the Legislative Assembly of Goa in the Thirty-eighth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Goa University (Amendment) Act, 1988.

(2) It shall come into force at once.

2. *Amendment of section 2.*—In section 2 of the Goa University Act, 1984 (Act No. 7 of 1984) (hereinafter referred to as the "principal Act"),—

(i) after clause (8), the following clause shall be inserted, namely:—

"(8a) "Court" means the Court of the University;"

(ii) for clause (11), the following clause shall be substituted, namely:—

"(11) "Government" means the Government of the State of Goa";

(iii) clause (16) shall be deleted;

(iv) clause (20) shall be deleted.

3. *Amendment of section 3.*—In section 3 of the principal Act,—

(i) in sub-section (1) and in other sections, for the words "Union territory" wherever they occur, the words "State of Goa" shall be substituted;

(ii) in sub-section (2), for the word "Panaji", the expression "Taleigao, Panaji Taluka, North Goa District" shall be substituted.

4. *Amendment of section 8.*—In section 8 of the principal Act, the word "Lieutenant" shall be deleted.

5. *Amendment of section 16.*—In section 16 and in other sections of the principal Act, for the word "Senate" wherever it occurs, the word "Court" shall be substituted.

6. *Amendment of section 27.*—In section 27 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) Any observations made by the Visitor on the annual account shall be considered by the Executive Council and its explanation/clarification thereon shall be submitted to the Visitor".

7. *Amendment of Schedule.*—In the Schedule to the principal Act, for the word "Senate" wherever it occurs, the word "Court" shall be substituted.

8. *Repeal and saving.*—(1) The Goa University (Amendment) Ordinance, 1987 (Ordinance No. 2 of 1987), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken in exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act as if this Act were in force on the day on which such thing or action was done or taken.

#### Statement of Objects and Reasons

In view of certain difficulties experienced in implementing the provisions of the Goa University Act and also in view of the suggestions made by the University Grants Commission the said Act was amended by the Goa University (Amendment) Ordinance 1987 (Ordinance No. 2 of 1987).

This Bill seeks to replace the said ordinance No. 2 of 1987 by an Act.

#### Financial Memorandum

No financial implications are involved in the implementation of this Bill/Act.

Panaji, PRATAPSINGH RAOJI RANE  
6th January, 1988. Chief Minister

Assembly Hall, M. M. NAIK  
Panaji Secretary to the Legislative  
6th January, 1988. Assembly of Goa.

(Annexure to Bill No. 7 of 1988)

#### The Goa University (Amendment) Bill 1988

The Goa University Act, 1984 (Act No. 8 of 1984)

##### 1. Section 2—

(11) "Government" means the Government of the Union Territory.

(16) "Senate" means the Senate of the University.

(20) "Union Territory" means the Union territory of Goa, Daman and Diu.

##### 2. Section 3—

(y) There shall be established in the Union Territory, a University by the name of "Goa University".

(2) The Headquarters of the University shall be at Panaji and it may establish campuses at such other places within its jurisdiction as it may deem fit.

##### 3. Section 8—

(1) The Lieutenant Governor of the Union Territory shall be the Visitor of the University.

##### 4. Section 16—Authorities of the University:

The following shall be the Authorities of the University:

1) The Senate;

2) The Executive Council;

3) The Academic Council;

4) The Faculties;

5) The Finance Committees;

6) Such other authorities as may be declared by the Statutes to be authorities of the University.

##### 5. Section 27—

(3) Any observations made by the Visitor on the annual accounts shall be brought to the notice of the Senate and the observations of the Senate, if any, shall, after being considered by the Executive Council, be submitted to the Visitor.

LA/B/144/1988

Dt. 15/1/1988

The following Bill which was introduced in the Legislative Assembly of Goa on 11-1-1988 is hereby published for general information in pursuance of the provisions of Rule-136 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

#### The Indian Forest (Goa Amendment) Bill, 1988

(Bill No. 8 of 1988)

A

#### BILL

further to amend the Indian Forest Act, 1927.

Be it enacted by the Legislative Assembly of Goa in the Thirty-eighth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Indian Forest (Goa Amendment) Act, 1988.

(2) It shall come into force at once.

2. *Amendment of section 41.*—In the Indian Forest Act, 1927 (Central Act 16 of 1927) (hereinafter referred to as the "principal Act") in section 41,—

(i) in clause (h), after the words "sawpits", the words "saw mills and sawing contrivances" shall be inserted;

(ii) after clause (h), the following clause, shall be inserted, namely:—

"(ha.)—regulating by grant of licences within specified limits, the converting or cutting of timber in a saw mill and sawing contrivances and prescribe fees and conditions subject to which such licences may be granted".

3. *Amendment of section 42.*—In the principal Act, in section 42, for the words "six months" and "five hundred rupees", the words "one year" and "one thousand rupees", shall be substituted, respectively.

4. *Amendment of section 51.*—In section 51 of the principal Act,—

(i) in sub-section (1), after clause (d), the following clause shall be inserted, namely:—

"(e) any other matter which is to be, or may be, prescribed or in respect of which provision is to be or may be, made by rules";

(ii) in sub-section (2), for the words "six months" and "five hundred rupees", the words

"one year" and "one thousand rupees" shall be substituted, respectively.

5. *Amendment of section 52.*—In the principal Act, in section 52,—

(i) in sub-section (1), for the words "or cattle" the figures and words, "cattle, vehicles or any contrivances used" shall be substituted;

(ii) after sub-section (1), the following sub-section shall be inserted namely:—

"(1A) Any Forest Officer or police officer may, if he has reason to believe that a vehicle or cart has been or is being used for the transport of forest produce in respect of which there is a reason to believe that a forest offence has been or is being committed, require the driver or other person in charge of such vehicle or cart to stop the vehicle or cart and cause it to remain stationery as long as may reasonably be necessary to examine the contents in the vehicle or cart and inspect all records relating to the forest produce carried, which are in the possession of such driver or other person in charge of the vehicle or cart or any other person in the vehicle or cart";

(iii) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) Every officer seizing any property under this section, shall place on such property or the receptacle of vehicle (if any) in which it is contained, a mark indicating that the same has been so seized and make a report of such seizure.

(a) where the offence on account of which the seizure has been made, is in respect of timber, firewood, charcoal or any forest produce which is the property of Government, to the concerned authorised officer under section 61A; and

(b) in other cases, to the Magistrate having jurisdiction to try the offence on account of which the seizure has been made:

Provided that, when the forest produce with respect to which such offence is believed to have been committed is the property of Government, and the offender is unknown, it shall be sufficient if the officer makes, as soon as may be, a report of the circumstances to his superior officer.

6. *Amendment of section 53.*—In section 53 of the principal Act, for the words and figures "or cattle under section 52, may release", the words, figures and letters "vehicle, cattle, or any other contrivance under section 52, may, subject to the provision of section 61G release" shall be substituted.

7. *Amendment of section 56.*—In section 56 of the principal Act,—

(i) for the words "has been confiscated", the words "has been forfeited" shall be substituted;

(ii) for the words "in any other case, may be disposed", the words, figures and letters "in any other case may, subject to provisions of section 61G, be disposed" shall be substituted.

8. *Amendment of section 57.*—In section 57 of the principal Act,—

(i) after the words "that an offence has been committed," the words, figures and letters "subject to the provisions of section 61G", shall be inserted;

(ii) for the words "to be confiscated", the words and figures "to be forfeited to the Government together with tools, boats, vehicles, carts or cattle and other articles used in committing the offence" shall be substituted;

(iii) for the words "one month", the figures and words "45 days" shall be substituted.

9. *Amendment of section 58.*—For section 58 of the principal Act, the following section shall be substituted, namely:—

"58. *Procedure as to perishable property seized under section 52.*—The Forest officer who made the seizure under section 52 may, notwithstanding anything contained in this Act or any other law, sell the property if it is subject to speedy and natural decay, and may deal with the proceeds as he would have dealt with such property if it had not been sold and shall report every such sale to his superior officer".

10. *Amendment of section 59.*—In section 59 of the principal Act, for the words "one month", the words and figures "45 days" shall be substituted.

11. *Amendment of section 60.*—In section 60 of the principal Act, for the word "confiscation", the word "forfeiture" shall be substituted.

12. *Amendment of section 61.*—In section 61 of the principal Act, for the words and figures "under section 52", the words and figures "under section 52 which is not the property of the Government and the withdrawal of any charge made in respect of such property", shall be substituted.

13. *Insertion of new sections 61A, 61B, 61C, 61D, 61E, 61F and 61G.*—After section 61 of the principal Act, the following sections shall be inserted, namely:—

"61A. *Confiscation by Forest Officer in certain cases.*—(1) Notwithstanding anything contained in the foregoing provisions of this chapter or any other law for the time being in force, where a forest offence is believed to have been committed in respect of forest produce which is the property of the Government, the officer seizing the property under sub-section (1) of section 52 shall, without any unreasonable delay, produce it, together with all tools, ropes, chains, boats, vehicles, carts and cattle used in committing such offence before an officer authorised by the Government in this behalf, by notification in the Official Gazette, not being below the rank of an Assistant Conservator of Forest (hereinafter referred to as the "authorised officer").

(2) Where an authorised officer seizes under sub-section (1) of section 52, any forest produce which is the property of the Government or any such property is produced before the authorised

officer under sub-section (1) and once he is satisfied that a forest offence has been committed in respect of such property, such authorised officer may, whether or not a prosecution is instituted for the commission of such forest offence, order confiscation of the property so seized together with all tools, ropes, chains, boats, vehicles, carts, cattle, and other contrivances used in the commission of such offence.

(3) Where the authorised officer, after passing an order of confiscation under sub-section (2), is of the opinion that it is expedient in the public interest so to do, he may, order the confiscated property or any part thereof to be sold by public auction.

(4) Where any confiscated property is sold as aforesaid, the proceeds thereof, after deduction of the expenses of such auction or other incidental expenses relating thereto, shall, where the order of confiscation made under section 61A is set aside or annulled by an order under section 61C or 61D, be paid to the owner thereof or to the person from whom it was seized as may be specified in such order.

**61B. Issue of showcause notice before confiscation under section 61A.** — (1) No order confiscating any forest produce or tools, ropes, chains, boats, vehicles, carts, cattle or any contrivances shall be made under section 61A except after notice in writing to the person from whom it was seized and considering his objections, if any:

Provided that, no order confiscating a motor vehicle shall be made except, after giving a notice in writing to the registered owner thereof, if in the opinion of the authorised officer it is practicable to do so and considering his objections, if any.

(2) Without prejudice to the provisions of sub-section (1), no order shall be made under section 61A, if the owner of the tools, ropes, chains, boats, vehicles, carts, cattle or any other contrivance, proves to the satisfaction of the authorised officer that it was used in carrying forest produce without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the tool, rope, chain, boat, vehicle, cart and cattle or any other contrivance and that each of them has taken all reasonable and necessary precautions against such use.

**61C. Revision.** — Any Forest Officer not below the rank of Deputy Conservator of Forest specially empowered by the Government in this behalf, by notification in the Official Gazette, may, before the expiry of ninety days from the date of the order of the authorised officer under section 61A, give notice and call for and examine the records of that order and may make such enquiry or cause such enquiry to be made and may pass such order as he deems fit:

Provided that, no such order prejudicial to a person shall be passed under this section without giving him, an opportunity of being heard.

**61D. Appeal.** — (1) Any person aggrieved by any order passed under section 41, 61A or section 61C, may within forty five days from the

date of communication to him of such order, appeal to the Sessions Judge having jurisdiction over the area in which the property to which the order relates has been seized and the Sessions Judge shall, after giving an opportunity of being heard to the appellant and the authorised officer or the officer specially empowered under section 61C, as the case may be, pass such order as he may think fit confirming, modifying or annulling the order appealed against.

(2) An order of the Sessions Judge under sub-section (1) shall be final and shall not be questioned in any Court of law.

**61E. Order of confiscation or seizure not to interfere with other punishment.** — The order of any confiscation or seizure under section 41, 61A or section 61C or section 61D shall not prevent the infliction of any punishment to which the person affected thereby is liable under this Act.

**61F. Property confiscated when to vest in Government.** — When an order for confiscation or seizure of any property has been passed under section 41, 61A or 61C or 61D and such order has become final in respect of the whole or any portion of it or if it has been sold under sub-section (3) of section 61A, the sale proceeds thereof, as the case may be, shall vest in the Government free from all encumbrances.

**61G. Bar of jurisdiction in certain cases.** — Whenever any forest produce belonging to the Government together with any tool, rope, chain, boat, vehicle, cart, cattle or any other contrivance used in committing any offences is seized under sub-section (1) of section 52, the authorised officer under section 61A or the officer specially empowered under section 61C or the Sessions Judge hearing an appeal under section 61D shall have and, notwithstanding anything to the contrary contained in this Act or in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), or in any other law for the time being in force, any other officer, court, tribunal or authority shall not have jurisdiction to make an order with regard to the custody, possession, delivery or distribution of such property".

**14. Amendment of section 62.** — For section 62 of the principal Act, the following section shall be substituted, namely:—

**"62. Punishment for wrongful seizure.** — (1) Any Forest Officer or Police Officer who vexatiously and unnecessarily seizes any property liable to forfeiture under this Act, shall on conviction be punishable with imprisonment which may extend to six months or with fine which may extend to five hundred rupees, or with both.

(2) Any fine so imposed or any portion thereof shall, if the convicting Court so directs, be given as compensation to the person aggrieved by such seizure".

**15. Amendment of section 68.** — In section 68 of the principal Act, —

(i) in sub-section (1), after the words and figures "The State Government may," the words

and figures "subject to such conditions as may be specified," shall be inserted;

(ii) in clause (a), for the words and figures "any forest offence," the words and figures "any forest offence under this Act," shall be substituted and after the words "a sum of money," the words and figures "not exceeding ten thousand rupees," shall be inserted;

(iii) in clause (b), after the words "liable to confiscation", the words, figures and letters "liable to confiscation subject to provision of section 61G" shall be inserted.

(iv) in sub-section (3), for the word "fifty" the words "ten thousand" shall be substituted.

**16. Repeal and saving.**— (1) The Indian Forest (Goa Amendment) Ordinance, 1987 (Ordinance No. 1 of 1987), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken in exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act as if this Act were in force on the day on which such thing or action was done or taken.

#### Statement of Objects and Reasons

In the post liberation era, there has been rapid decline in the area under forest cover in Goa, due to expansion of area under agriculture and cash crops. The present area under forest cover is estimated to be 26% which is quite inadequate for maintaining the ecological balance in this State.

Whatever forests are left, they are under severe pressure because of increase in the demand for fire wood and small timber for the rapidly increasing population as well as meeting the requirements for building/construction activity which has been going on in this State at an accelerated speed. Instances of illegal cutting of forest is increasing and this is mainly due to steep increase in price of timber and timber products. For curbing this the only course left before the Government is to enforce deterrent legal measures by providing effective and sharp teeth to the existing laws. For curbing this, the State has already promulgated an Ordinance on 18-9-1987 for seizure and confiscation of vehicles carrying unauthorised forest produce in the State of Goa.

Now the Bill in place of the said Ordinance is drafted and put up.

#### Financial Memorandum

There is no financial implication.

Panaji  
7th January, 1988

Assembly Hall

Panaji  
7th January, 1988

PRATAPSING RANE  
Chief Minister

M. M. NAIK  
Secretary to the Legislative  
Assembly of Goa.

[Annexure to Bill, No. 8 of 1988]

#### The Indian Forest (Goa Amendment) Bill, 1988

The Indian Forest Act, 1927

(Central Act 16 of 1927)

#### Section 41, Sub-section (2) (h):

Prohibit absolutely or subject to conditions, within specified local limits, the establishment of saw-pits, the converting, cutting, burning, concealing or marking of timber, the altering or effacing of any marks of the same, or the possession or carrying of marking hammers or other implements used for marking timber;

#### Section 42, (1):

The (State Government) may by such rules prescribe as penalties for the contravention thereof imprisonment for a term which may extend to six months, or fine which may extend to five hundred rupees, or both.

#### 42 (2):

Such rules may provide that penalties which are double of those mentioned in sub-section (1) may be inflicted in cases where the offence is committed after sunset and before sunrise or after preparation for resistance to lawful authority, or where the offender has been previously convicted of a like offence.

#### Section 51, (2):

The (State Government) may prescribe, as penalties for the contravention of any rules made under this section, imprisonment for a term which may extend to six months, or fine which may extend to five hundred rupees, or both.

#### Section 52, (1):

When there is reason to believe that a forest offence has been committed in respect of any forest produce, such produce, together with all tools, boats, carts or cattle used in committing any such offence, may be seized by any Forest Officer or Police Officer.

#### (2):

Every officer seizing any property under this section shall place on such property a mark indicating that the same has been so seized, and shall, as soon as may be, make a report of such seizure to the Magistrate having jurisdiction to try the offence on account of which the seizure has been made:

Provided that, when the forest produce with respect to which such offence is believed to have been committed is the property of Government, and the offender is unknown, it shall be sufficient if the officer makes, as soon as may be, a report of the circumstances to his official superior.

#### Section 53:

Any Forest Officer of a rank not inferior to that of a Ranger who, or whose subordinate has seized any tools, boats, carts and cattle under Sect. 52, may release the same on the execution by the owner thereof of a bond for the production of the property so released, if and when so required, before the Magistrate having jurisdiction to try the offence on account of which the seizure has been made.

#### Section 56:

When the trial of any forest offence is concluded, any forest produce in respect of which such offence has been committed, shall if it is the property of Government or has been confiscated, be taken charge of by a Forest Officer, and, in any other case, may be disposed of in such manner as the Court may direct.

#### Section 57:

When the offender is not known or cannot be found, the Magistrate may, if he finds that an offence has been committed, order the property in respect of which the offence has been committed to be confiscated and taken charge of by the Forest Officer, or to be made over to the person whom the Magistrate deems to be entitled to the same:

Provided that no such order shall be made until the expiration of one month from the date of seizing such property.

or without hearing the person, if any, claiming any right thereto, and the evidence, if any, which he may produce in support of his claim.

#### Section 58:

The Magistrate may, notwithstanding anything hereinbefore contained; direct the sale of any property seized under Sec. 52 and subject to speedy and natural decay, and may deal with the proceeds as he would have dealt with such property if it had not been sold.

#### Section 59:

The officer who made the seizure under Sec. 52, or any of his official superiors, or any person claiming to be interested in the property so seized, may within one month from the date of any order passed under Sec. 55, Sec. 56 or Sec. 57, appeal therefrom to the Court to which orders made, by such Magistrate are ordinarily appealable, and the order passed on such appeal shall be final.

#### Section 60:

When an order for the confiscation of any property has been passed under Sec. 55 or Sec. 57, as the case may be, and the period limited by Sec. 59 for an appeal from such order has elapsed, and no such appeal has been preferred, or when on such an appeal being preferred, the Appellate Court confirms such order in respect of the whole or a portion of such property, such property or such portion thereof, as the case may be, shall vest in the Government free from all encumbrances.

#### Section 61:

Nothing hereinbefore contained shall be deemed to prevent any officer empowered in this behalf by the (State Government) from directing at any time the immediate release of any property seized under Sec. 52.

#### Section 62:

Any Forest Officer or Police Officer who vexatiously and unnecessarily seizes any property on pretence of seizing property liable to confiscation under this Act shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

#### Section 63:

The (State Government) may by notification in the (official Gazette), empower a Forest Officer —

(a) to accept from any person against whom a reasonable suspicion exists that he has committed any forest offence other than an offence specified in Sec. 62 or Sec. 63, sum of money by way of compensation for the offence which such person is suspected to have committed, and

(b) when any property has been seized as liable to confiscation to release the same on payment of the value thereof as estimated by such officer.

#### (2):

On the payment of such sum of money, or such value, or both, as the case may be, to such officer, the suspected person, if in custody, shall be discharged, the property, if any, seized shall be released, and no further proceedings shall be taken against such person or property.

#### (3):

A Forest Officer shall not be empowered under this section unless he is a Forest Officer of a rank not inferior to that of a Ranger and is in receipt of a monthly salary amounting to at least one hundred rupees, and the sum of money accepted as compensation under Cl. (a) of sub-section (1) shall in no case exceed the sum of fifty rupees.

Assembly Hall,  
Panaji,  
7th January, 1988.

M. M. NAIK  
Secretary to the Legislative  
Assembly of Goa

LA/B/196/1988

Dt. 15/1/1988

The following Bill which was introduced in the Legislative Assembly of Goa on 11-1-1988 is hereby published for general information in pursuance of the provisions of Rule-136 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

## The Goa Town and Country Planning (Amendment) Bill, 1988 (Bill No. 10 of 1988)

A

BILL

further to amend the Goa, Daman and Diu Town and Country Planning Act, 1974.

Be it enacted by the Legislative Assembly of Goa in the Thirty-eighth Year of the Republic of India as follows: —

1. *Short title and commencement.* — (1) This Act may be called the Goa Town and Country Planning (Amendment) Act, 1988.

(2) It shall come into force at once.

2. *Amendment of section 17.* — In section 17 of the Goa, Daman and Diu Town and Country Planning Act, 1974 (Act 21 of 1975) (hereinafter referred to as the "principal Act"), the words and figures "but not earlier than five years therefrom," shall be deleted.

3. *Amendment of section 20.* — In section 20 of the principal Act, in sub-section (3), in sub-clause (b) of clause (iii), the figure and words, "provided that the total number of such representatives does not exceed five" shall be deleted.

4. *Amendment of section 44.* — In section 44 of the principal Act, in sub-section (4), —

(i) in clause (ii), the word "and" shall be deleted.

(ii) the clause (iii) shall be renumbered as clause (iv), thereof, and before the said clause the following clause shall be inserted, namely: —

"(iii) to the relevant bye-laws or regulations of the local authority concerned; and"

5. *Amendment of section 49.* — In section 49 of the principal Act, in sub-section (6), after the first proviso, the following proviso shall be added, namely: —

"Provided further that no such certificate of sanction or no objection shall be required to be produced for the purpose of mortgaging immovable property in favour of any financial institutions notified by the Government by a notification in the Official Gazette, for the purpose of this Act".

6. *Amendment of section 125.* — In section 125 of the principal Act, in sub-section (1), for the expres-



sion "The Government or the Planning and Development Authority concerned", the expression "Subject to such terms and conditions, if any, as may be prescribed, the Government or the Planning and Development Authority concerned" shall be substituted.

#### Statement of Objects and Reasons

Certain difficulties are being experienced while implementing the provisions of the Town and Country Planning Act. These difficulties have arisen particularly in regard to the following limitations of the Act:

(i) The Regional Plan of the State cannot be amended before the expiry of five years since its publication in the Official Gazette. It has been observed that because of large scale developmental activities in the State, both in the public as well as in the private sector, it may become necessary to make some changes in the Regional Plan before completion of five years. It is, therefore, considered necessary to do away with the restriction of five years imposed on amendment of Regional Plan.

(ii) Only five representatives can be nominated from the local authorities on a Planning and Development Authority. Since there are more than five local bodies in the jurisdiction of each of the Planning and Development Authorities, it is considered necessary that this provision should be amended to do away with the statutory restriction of having a maximum of five representatives of local bodies.

(iii) Since it is primarily the responsibility of the Planning and Development Authority to see that development in planning areas takes place in accordance with the provisions of law, it is felt that the law should be amended suitably to ensure that Municipal Councils which are required to issue licences for construction should follow the recommendations of the Planning and Development Authority concerned.

(iv) Entrepreneurs are required to obtain NOC from the Planning and Development Authority concerned before they can mortgage their immovable property for obtaining loans even from public financial institutions. Such a provision is considered to be a hindrance to quick industrial development in the State. It is felt that an exception in respect of public financial institutions should be made.

(v) The power of compounding an offence under the Act at present does not specify the nature of offence that can be compounded and the terms and conditions on which an offence can be compounded. It is considered necessary that the provision should be restricted only to certain specific categories of violation and compounding should be permitted only on payment of specific compounding fees.

2. In order to remove the difficulties mentioned above, it is necessary to amend sections 17, 20, 44, 49 and 125 of the Town and Country Planning Act, 1974.

#### Financial Memorandum

The only financial implication involved in this bill is in respect of the amendment in section 20 by virtue of which the number of members of a Planning and Development Authority may be increased. Such members will have to be paid sitting fees of Rs. 50/- for which expenditure will have to be incurred by the Planning and Development Authority concerned from its own funds.

PRATAPSINGH RAOJI RANE

Chief Minister

Panaji,

1st January, 1988

Assembly Hall,

Panaji,

7th January, 1988

M. M. NAIK

Secretary to the Legislative  
Assembly of Goa.

(Annexure to Bill No. 10 of 1988)

The Goa Town and Country Planning (Amendment) Bill, 1988

The Goa, Daman and Diu Town and Country Planning Act, 1974

(Act No. 21 of 1975)

#### Section 17. Revision of regional plan:

If the Government, at any time after a regional plan has been published in the Official Gazette, but not earlier than five years therefrom, is of the opinion that a revision of such regional plan is necessary, it may direct the Chief Town Planner to undertake the revision of the regional plan and thereupon the foregoing provisions of this Act relating to the preparation of the regional plan shall, as far as may be, apply to the revision of a regional plan under this section.

#### Section 20. Constitution of Planning and Development Authority.

(1) As soon as may be, after the declaration of the planning area, the Government, in consultation with the Board, may, by notification, constitute in respect of that area an authority to be called the "Planning and Development Authority" of that area for the purpose of performing the functions assigned to Planning and Development Authorities under this Act.

(2) Every Planning and Development Authority constituted under sub-section (1) shall be a body corporate by the name aforesaid having perpetual succession and a common seal with power to acquire, hold and dispose of property both movable and immovable, and to contract, and shall by the said name sue and be sued.

(3) Every Planning and Development Authority constituted under sub-section (1) shall consist of the following members, namely:—

(i) a Chairman to be appointed by the Government;

(ii) a Town Planning Officer to be appointed by the Government in consultation with the Chief Town Planner who shall be the Member Secretary of the Planning and Development Authority;

(iii) representatives of local authorities, to be composed as follows:—

(a) in the case of a planning area in which only one local authority has jurisdiction, a representative nominated by that local authority from among its members and the Chief Executive Officer of that local authority;

(b) in the case of a planning area in which two or more local authorities have jurisdiction, representatives of such local authorities as the Government may consider necessary to be represented, provided that the total number of such representatives does not exceed five;

(iv) such number of other members, not exceeding three, appointed by the Government, who, in the opinion of the Government, have special knowledge of, or practical experience in, matters relating to town and country planning, architecture, engineering, transport, industry, commerce and agriculture.

Section 44 sub-section (4)

(ii) the proposals or provisions which it thinks are likely to be made in any Development Plan under preparation, or to be prepared; and

(iii) any other material consideration.

Section 49 sub-section (6)

Notwithstanding, anything contained in any other law for the time being in force, where any document required to be registered under the provisions of sub-section (1) of section 29 of the Registration Act, 1908, purports to transfer, assign, limit or extinguish the right, title or interest of any person, to or in any property or land within a planning area, no registering officer appointed under that Act shall register any such document, unless the owner of such property or land produces a certificate of sanction or a certificate of "no objection" from the Planning and Development Authority exercising jurisdiction in respect of the planning area;

Provided that no such certificate of sanction or "no objection" shall be required to be produced if the subdivision of land or the making or layout of any property results from the rights of inheritance within a family.

Section 125. Composition of offence

The Government or the Planning and Development Authority concerned or any person authorised by the Government or the Authority in this behalf, by general or special order, may either before or after the institution of the proceedings under this Act compound any offence made punishable by or under this Act.

(2) When an offence has been compounded under sub-section (1), the offender, if in custody shall be discharged and no further proceedings shall be taken against him in respect of the offence compounded.

Central  
Act 16  
of 1908

Assembly Hall,  
Panaji,  
7th January, 1988.

M. M. NAIK  
Secretary to the Legislative  
Assembly of Goa.

LA/B/976/1988

Dt: 23/3/1988

The following Bill which was introduced in the Legislative Assembly of Goa on 23-3-88 is hereby published for general information in pursuance of the provisions of Rule-136 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

The Goa Public Premises (Eviction of Unauthorised Occupants) Bill, 1988

(Bill No. 24 of 1988)

A  
BILL

*to provide for the eviction of unauthorised occupants from the Public Premises and for certain incidental matters.*

Be it enacted by the Legislative Assembly of Goa in the Thirty-ninth Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Goa Public Premises (Eviction of Unauthorised Occupants) Act, 1988.

(2) It extends to the whole of Goa.

(3) It shall be deemed to have come into force on the 30th day of May, 1987.

2. *Definitions.*— In this Act, unless the context otherwise requires,—

(a) "estate officer" means an officer appointed as such by the Government under section 3;

(b) "Government" means the Government of Goa;

(c) "premises" means any land or any building or part of building and includes,—

(i) the garden, grounds and outhouses, if any, appertaining to such building or part of a building, and

(ii) any fitting affixed to such building or part of a building for more beneficial enjoyment thereof;

(d) "prescribed" means prescribed by rules made under this Act;

(e) "public premises" means —

(1) any premises belonging to, or taken on lease or requisitioned by, or on behalf of the Government, and includes any premises provided as residential accommodation to any member of the staff of the Goa State Legislature;

(2) any premises belonging to, or taken on lease by, or on behalf of,—

(i) any Company as defined in section 3 of the Companies Act, 1956 (Central Act 1 of 1956), in which not less than fifty one percent, of the paid-up share capital is held by the Government or any Company which is a subsidiary (within the meaning of that Act) of the first mentioned Company;

(ii) any Corporation (not being a company as defined in section 3 of the Companies Act, 1956 (Central Act 1 of 1956), or a local authority) established by or under the State enactment and owned and controlled by the Government;

(iii) any university established by the State of Goa;

(iv) any institute established or owned by the Government;

(v) any premises belonging to the Development Authorities/Board established under the State enactment.

(f) "rent", in relation to any public premises, means the consideration payable periodically for the authorised occupation of the premises and includes —

(i) any charge for electricity, water or any other services in connection with the occupation of the premises,



(ii) any tax (by whatever name called) payable in respect of the premises, where such charge or tax is payable by the Government or the Statutory Authority;

(g) "Statutory authority", in relation to the public premises referred to in clause (e) of this section, means, —

(i) in respect of the public premises placed under the control of the Legislative Assembly of Goa, the Secretariat of the Legislative Assembly;

(ii) in respect of the public premises referred to in item (i) of sub-clause (2) of that clause, the Company or the subsidiary Company, as the case may be, referred to therein;

(iii) in respect of the public premises referred to in item (ii) of sub-clause (2) of that clause, the Corporation referred to therein; and

(iv) in respect of the public premises referred to, respectively, in items (iii), (iv) and (v) of sub-clause (2) of that clause, the University, Institute, Development Authority/ Board as the case may be, referred to therein.

(h) "unauthorised occupation", in relation to any public premises, means, the occupation by any person of the public premises, without authority for such occupation, and includes the continuance in occupation by any person of the public premises after the authority (whether by way of grant, lease, leave and licence or any other mode of transfer) under which he was allowed to occupy the premises has expired or has been determined for any reason whatsoever.

**3. Appointment of estate officers.** — The Government may, by notification in the Official Gazette, —

(a) appoint such persons, being gazetted officers of Government or officers of equivalent rank of the statutory authority, as it thinks fit, to be estate officers for the purposes of this Act:

Provided that no officer of the Secretariat of the Legislative Assembly of Goa shall be so appointed except after consultation with the Speaker:

Provided further that an officer of a statutory authority shall only be appointed as an estate officer in respect of the public premises controlled by that authority; and

(b) define the local limits within which or the categories of public premises in respect of which, the estate officers shall exercise the power conferred and perform the duties imposed, on estate officers by or under this Act.

**4. Issue of notice to show cause against order of eviction.** — (1) If the estate officer is of opinion that any persons are in unauthorised occupation of any public premises and that they should be evicted, the estate officer shall issue in the manner hereinafter provided a notice in writing calling upon all persons concerned to show cause why an order of eviction should not be made.

(2) The notice shall —

(a) specify the grounds on which the order of eviction is proposed to be made; and

(b) require all persons concerned, that is to say, all persons who are, or may be, in occupation of, or claim interest in, the public premises, —

(i) to show cause, if any, against the proposed order on or before such date as is specified in the notice, being a date not earlier than seven days from the date of issue thereof, and

(ii) to appear before the estate officer on the date specified in the notice along with the evidence which they intend to produce in support of the cause shown and also for personal hearing, if such hearing is desired.

(3) The estate officer shall cause the notice to be served by having it affixed on the outer door or some other conspicuous part of the public premises, and in such other manner as may be prescribed, whereupon the notice shall be deemed to have been duly given to all persons concerned.

(4) Where the estate officer knows or has reasons to believe that any persons are in occupation of the public premises, then, without prejudice to the provisions of sub-section (3), he shall cause a copy of the notice to be served on every such person by post or by delivering or tendering it to that person or in such other manner as may be prescribed.

**5. Eviction of unauthorised occupants.** — (1) If, after considering the cause, if any, shown by any person in pursuance of a notice under section 4 and any evidence produced by him in support of the same and after personal hearing, if any, given under clause (b) of sub-section (2) of section 4, the estate officer is satisfied that the public premises are in unauthorised occupation, the estate officer may make an order of eviction, for reasons to be recorded therein, directing that the public premises shall be vacated, on such date as may be specified in the order, by all persons who may be in occupation thereof, and cause a copy of the order to be affixed on the outer door or some other conspicuous part of the public premises.

(2) If any person refuses or fails to comply with the order of eviction on or before, the date specified in the said order or within fifteen days of the date of its publication under sub-section (1), whichever is later, the estate officer or any other officer duly authorised by the estate officer in this behalf may after the date so specified or after the expiry of the period aforesaid, whichever is later, evict that person from, and take possession of, the public premises and may for that purpose, use such force as may be necessary.

**6. Power to remove unauthorised constructions, etc.** — (1) No person shall —

(a) erect or place or raise any building or any movable or immovable structure or fixture;

(b) display or spread any goods,

(c) bring or keep any cattle or other animal, on, or against, or in front of, any public premises except in accordance with the authority (whether by way of grant or any other mode of transfer) under which he was allowed to occupy such premises.

(2) Where any building or other immovable structure or fixture has been erected, placed or raised on any public premises in contravention of the provision of sub-section (1), the estate officer may serve upon the person erecting such building or other structure or fixture, a notice requiring him either to remove, or to show cause why he shall not remove such building or other structure or fixture, from the public premises within such period, not being less than seven days, as he may specify in the notice; and on the omission or refusal of such person either to show cause, or to remove such building or other structure or fixture from the public premises, or where the cause shown is not, in the opinion of the estate officer, sufficient, the estate officer may, by order, remove or cause to be removed the building or other structure or fixture from the public premises and recover the cost of such removal from the person aforesaid as an arrear of land revenue.

(3) Where any movable structure or fixture has been erected, placed or raised, or any goods have been displayed or spread, or any cattle or other animal has been brought or kept, on any public premises, in contravention of the provisions of sub-section (1) by any person, the estate officer may, by order, remove or cause to be removed without notice, such structure, fixture, goods, cattle or other animal, as the case may be, from the public premises and recover the cost of such removal from such person as an arrear of land revenue.

**7. Order of demolition of unauthorised construction.**—(1) Where the erection of any building or execution of any work has been commenced, or is being carried on, or has been completed, on any public premises by any person in occupation of such public premises under an authority (whether by way of grant or any other mode of transfer), and such erection of building or execution of work is in contravention of, or not authorised by such authority, then, the estate officer may, in addition to any other action that may be taken under this Act or in accordance with the terms of the authority aforesaid, make an order, for reasons to be recorded therein, directing that such erection or work shall be demolished by the person at whose instance the erection or work has been commenced, or is being carried on, or has been completed, within such period, as may be specified in the order:

Provided that no order under this sub-section shall be made unless the person concerned has been given, by means of a notice of not less than seven days, served in the prescribed manner, a reasonable opportunity of showing cause why such order should not be made.

(2) Where the erection or work has not been completed, the estate officer may, by the same order or by a separate order, whether made at the time of the issue of the notice under the proviso to sub-section (1) or at any other time, direct the person at whose instance the erection or work has been commenced, or is being carried on, to stop the erection or work until the expiry of the period within which an appeal against the order of demolition, if made, may be preferred under section 12.

(3) The estate officer shall cause every order made under sub-section (1), or, as the case may be,

under sub-section (2), to be affixed on the outer door, or some other conspicuous part, of the public premises.

(4) Where no appeal has been preferred against the order of demolition made by the estate officer under sub-section (1) or where an order of demolition made by the estate officer under that sub-section has been confirmed on appeal, whether with or without variation, the person against whom the order has been made shall comply with the order within the period specified therein, or, as the case may be, within the period, if any, fixed by the appellate officer on appeal, and, on the failure of the person to comply with the order within such period, the estate officer or any other officer duly authorised by the estate officer in this behalf, may cause the erection or work to which the order relates to be demolished.

(5) Where an erection or work has been demolished, the estate officer may, by order, require the person concerned to pay the expenses of such demolition within such time, and in such number of instalments, as may be specified in the order.

**8. Power to seal unauthorised constructions.**—

(1) It shall be lawful for the estate officer, at any time, before or after making an order of demolition under section 7, to make an order directing the sealing of such erection or work or of the public premises in which such erection or work has been commenced or is being carried on or has been completed in such manner as may be prescribed, for the purpose of carrying out the provisions of this Act, or for preventing any dispute as to the nature and extent of such erection or work.

(2) Where any erection or work or any premises in which any erection or work is being carried on has, or have been sealed, the estate officer may, for the purpose of demolishing such erection or work in accordance with the provisions of this Act, order such seal to be removed.

(3) No person shall remove such seal except—

(a) under an order made by the estate officer under sub-section (2); or

(b) under an order of the appellate officer made in an appeal under this Act.

**9. Disposal of property left on public premises by unauthorised occupants.**—(1) Where any person has been evicted from any public premises under section 5 or where any building or other work has been demolished under section 7, the estate officer may, after giving fourteen days' notice to the persons from whom possession of the public premises has been taken after publishing the notice in at least one newspaper having circulation in the locality, remove or cause to be removed or dispose of by public auction any property remaining on such premises.

(2) Where any goods, materials, cattle or other animal have been removed from any public premises under section 6, the estate officer may, after giving fourteen days' notice to the persons owning such goods, materials, cattle or other animal and after publishing the notice in at least one newspaper

having circulation in the locality, dispose of, by public auction, such goods, materials, cattle or other animals.

(3) Notwithstanding anything contained in sub-sections (1) and (2), the giving or publication of any notice referred to therein shall not be necessary in respect of any property which is subject to speedy and natural decay, and the estate officer may, after recording such evidence as he may think fit, cause such property to be sold or otherwise disposed of in such manner as he may think fit.

(4) Where any property is sold under sub-section (1), the sale proceeds thereof shall, after deducting the expenses of the sale and the amount, if any, due to the Government or the statutory authority on account of arrears of rent or damages or costs, be paid to such person or persons as may appear to the estate officer to be entitled to the same:

Provided that where the estate officer is unable to decide as to the person or persons to whom the balance of the amount is payable or as to the apportionment of the same, he may refer such dispute to the civil court of competent jurisdiction and the decision of the court thereon shall be final.

(5) The expression "costs", referred to in sub-section (4), shall include the cost of removal recoverable under section 6 and the cost of demolition recoverable under section 7.

**10. Power to require payment of rent or damages in respect of public premises.**—(1) Where any person is in arrears of rent payable in respect of any public premises, the estate officer may, by order, require that person to pay the same within such time and in such instalments as may be specified in the order.

(2) Where any person is, or has at any time been, in unauthorised occupation of any public premises the estate officer may, having regard to such principles of assessment of damages as may be prescribed, assess the damages on account of the use and occupation of such premises and may, by order, require that person to make good the damages within such time and in such instalments as may be specified in the order.

(3) While making an order under sub-section (1) or sub-section (2), the estate officer may direct that the arrears of rent or, as the case may be, damages shall be payable together with simple interest at such rate as may be prescribed, not being a rate exceeding the current rate of interest within the meaning of the Interest Act, 1978. (Central Act 14 of 1978).

(4) No order under sub-section (1) or sub-section (2) shall be made against any person until after the issue of a notice in writing to the person calling upon him to show cause within such time as may be specified in the notice, why such order should not be made, and until his objections, if any, and any evidence he may produce in support of the same, have been considered by the estate officer.

**11. Powers of estate officer.**—An estate officer shall, for the purpose of holding any inquiry under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908

(Central Act 5 of 1908), when trying a suit in respect of the following matters, namely:—

(a) summoning and enforcing attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) any other matter which may be prescribed.

**12. Appeals.**—An appeal shall lie from every order of the estate officer made in respect of any public premises under section 5 or section 7 or section 8 or section 10 to an appellate officer who shall be the district judge of the district in which the public premises are situate or such other judicial officer in that district of not less than ten years' standing as the district judge may designate in this behalf.

(2) An appeal under sub-section (1) shall be preferred,—

(a) in the case of an appeal from an order under section 5, within twelve days from the date of publication of the order under sub-section (1) of that section; and

(b) in the case of an appeal from an order under section 7 or section 10, within twelve days from the date on which the order is communicated to the appellant:

Provided that the appellate officer may entertain the appeal after the expiry of the said period if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time, and

(c) in the case of an appeal from an order under section 8, within twelve days from the date of such order.

(3) Where an appeal is preferred from an order of the estate officer, the appellate officer may stay the enforcement of that order for such period and on such conditions as he deems fit:

Provided that, where the construction or erection of any building or other structure or fixture or execution of any other work was not completed on the day on which an order was made under section 7 for the demolition or removal of such building or other structure or fixture, the appellate officer shall not make any order for the stay of enforcement of such order, unless such security, as may be sufficient in the opinion of the appellate officer, has been given by the appellant for not proceeding with such construction, erection or work pending the disposal of the appeal.

(4) Every appeal under this section shall be disposed of by the appellate officer as expeditiously as possible.

(5) The costs of any appeal under this section shall be in the discretion of the appellate officer.

**13. Finality of orders.**—Save as otherwise expressly provided in this Act, every order made by an estate officer or appellate officer under this Act shall be final and shall not be called in question in any original suit, application or execution proceeding and no injunction shall be granted by any court or other authority in respect of any action taken

or to be taken in pursuance of any power conferred by or under this Act.

**14. Offences and Penalty.**— (1) If any person unlawfully occupies any public premises, he shall be punishable with simple imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both:

Provided that a person who, having been lawfully in occupation of any public premises by virtue of any authority (whether by way of grant, allotment or by any other mode whatsoever) continues to be in occupation of such premises after such authority has ceased to be valid, shall not be guilty of such offence.

(2) If any person who has been evicted from public premises under this Act again occupies the premises without authority for such occupation, he shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to five thousand rupees, or with both.

(3) Any magistrate convicting a person under sub-section (2), may make an order for evicting that person summarily and he shall be liable to such eviction without prejudice to any other action that may be taken against him under this Act.

**15. Offences under section 14 to be cognizable.**— The Code of Criminal Procedure, 1973 (Central Act 2 of 1974), shall apply to an offence under section 14 as if it were a cognizable offence—

(i) for the purposes of investigation of such offence; and

(ii) for the purposes of matters, other than—

(1) matters referred to in section 42 of that Code; and

(2) arrest of a person except on the complaint of, or upon information received from,—

(a) Group A officer as may be appointed by the Government, in the case of an offence in relation to the public premises specified in sub-clause (1) of clause (e) of section 2;

(b) an officer equivalent to the rank of a Group A officer of the Government or where it is not possible to specify an officer of such equivalent rank, such executive officer as may be appointed by the statutory authority in the case of an offence in relation to the public premises specified in sub-clause (2) of clause (e) of section 2;

(c) such officer in the case of an offence in relation to the public premises belonging to the Development Authority, as may be appointed by the Government.

**16. Power to obtain information.**— If the estate officer has reason to believe that any persons are in unauthorised occupation of any public premises, the estate officer or any other officer authorised by him in this behalf may require those persons or any other person to furnish information relating to the names and other particulars of the persons in occupation of the public premises and every person

so required shall be bound to furnish the information in his possession.

**17. Liability of heirs and legal representatives.**—

(1) Where any person against whom any proceeding for the determination of arrears of rent or for the assessment of damages or for the determination of the amount payable by way of interest on such arrears of rent or damages is to be or has been taken, dies before the proceeding is taken or during the pendency thereof, the proceeding may be taken or, as the case may be, continued against the heirs or legal representatives of that person.

(2) Where any person from whom any cost of removal of any building or other structure or fixture, or, as the case may be, any goods, cattle or other animal is to be recovered under sub-section (2) or sub-section (3) of section 6, or any expenses of demolition are to be recovered under sub-section (5) of section 7, dies before any proceeding is taken for the recovery of such cost or during the pendency thereof, the proceeding may be taken or, as the case may be, continued against the heirs or legal representatives of that person.

(3) Any amount due to the Government or the statutory authority from any person whether by way of arrears of rent or damages or cost of removal referred to in section 6 or expenses of demolition referred to in section 7 or interest referred to in sub-section (3) of section 10 or any other cost shall, after the death of the person, be payable by his heirs or legal representatives but their liability shall be limited to the extent of the assets of the deceased in their hands.

**18. Recovery of rent, etc., as an arrear of land revenue.**— If any person refuses or fails to pay the expenses of demolition payable under sub-section (5) of section 7 or the arrears of rent payable under sub-section (1) of section 10 or the damages payable under sub-section (2) or the interest determined under sub-section (3) of that section or the costs awarded to the Government or the statutory authority under sub-section (5) of section 12, or any portion of such rent, damages, expenses, interest or costs, within the time, if any, specified therefor in the order relating thereto, the estate officer may issue a certificate for the amount due to the collector who shall proceed to recover the same as an arrear of land revenue.

**19. Bar of jurisdiction.**— No court shall have jurisdiction to entertain any suit or proceeding in respect of—

(a) the eviction of any person who is in unauthorised occupation of any public premises; or

(b) the removal of any building, structure or fixture or goods, cattle or other animal from any public premises under section 6; or

(c) the demolition of any building or other structure made, or ordered to be made, under section 7; or

(d) the sealing of any erection or work or of any public premises under section 8; or

(e) the arrears of rent payable under sub-section (1) of section 10, or damages payable under sub-section (2), or interest payable under sub-section (3), of that section; or

(f) the recovery of —

(i) costs of removal of any building, structure or fixture or goods, cattle or other animal under section 6; or

(ii) expenses of demolition under section 7; or

(iii) costs awarded to the Government or statutory authority under sub-section (5) of section 12; or

(iv) any portion of such rent, damages, costs of removal, expenses of demolition as costs awarded to the Government or the statutory authority.

**20. Protection of action taken in good faith. —**

No suit, prosecution or other legal proceeding shall lie against the Government or the statutory authority or the appellate officer or the estate officer in respect of anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or orders made thereunder.

**21. Power to make rules. — (1)** The Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely: —

(a) the form of any notice required or authorised to be given under this Act and the manner in which it may be served;

(b) the holding of inquiries under this Act;

(c) the distribution and allocation of work of estate officers and the transfer of any proceeding before an estate officer to another estate officer;

(d) the procedure to be followed in taking possession of public premises;

(e) the manner in which damages for unauthorised occupation may be assessed and the principles which may be taken into account in assessing such damages;

(f) the manner in which the sealing of any erection or work of any public premises shall be made under sub-section (1) of section 8;

(g) the rate at which interest shall be payable on arrears of rent specified in any order made under sub-section (1) of section 10, or damages assessed under sub-section (2) of that section;

(h) the manner in which appeals may be preferred and the procedure to be followed in appeals;

(i) any other matter which has to be or may be prescribed.

**22. Validation. —** Notwithstanding any judgment, decree or order of any Court, anything done or any action taken including rules or orders made, notices issued, evictions ordered or effected, damages assessed, rents or damages or costs recovered and proceeding initiated or purported to have been done or taken under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 in respect of any public premises referred to in section 2 of this Act, shall be deemed to be as valid and effective

as if such thing or action was done or taken under the corresponding provisions of this Act.

**Statement of Objects and Reasons**

The Public Premises (Eviction of Unauthorised Occupants) Act, 1971 was extended to the then Union territory of Goa, Daman and Diu in terms of section 6 of Administration Act, 1962.

The above Act is still operative in the State of Goa, but the scope of the said Act is restricted to the extent of public premises as defined and covered under section 2(e) of the Act. The premises of the State of Goa do not fall within the purview of definition of public premises under the said Act, as a result the provision of the said Act cannot be invoked for effecting eviction of unauthorised occupants from public premises of the State of Goa. As such, Government thought it fit to move a legislation known as "The Goa Public Premises (Eviction of Unauthorised Occupants) Bill, 1988, to deal effectively with the unauthorised occupation of public premises of the State including any premises belonging to or taken on lease by, or on behalf of any Government Company or any Corporation or local authority established by or under a State Act and owned and controlled by the State Government, so that the unauthorised occupants of public premises can be dealt with more effectively and more speedily.

**Financial Memorandum**

No financial implications are involved in this Bill.

Panaji  
10th March, 1988.

S. H. HAROON  
Minister for Revenue

Assembly Hall  
Panaji  
15th March, 1988.

M. M. NAIK  
Secretary to the Legislative  
Assembly of Goa

LA/B/977/1988

Dt. 23/3/1988

The following Bill which was introduced in the Legislative Assembly of Goa on 23-3-88 is hereby published for general information in pursuance of the provisions of Rule-136 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

**The Code of Criminal Procedure (Goa Amendment) Bill, 1988**

(Bill No. 25 of 1988)

A

BILL

*further to amend the Code of Criminal Procedure, 1973.*

Be it enacted by the Legislative Assembly of Goa, in the Thirty-ninth Year of the Republic of India as follows: —

**1. Short title and commencement. — (1)** This Act may be called the Code of Criminal Procedure (Goa Amendment) Act, 1988.



(2) It shall come into force at once.

2. *Amendment of section 21.*—In the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) (hereinafter referred to as the principal Act), section 21 shall be renumbered as sub-section (1) thereof and after sub-section (1) as so renumbered, the following sub-sections shall be inserted, namely:—

“(2) Notwithstanding anything contained in sub-section (1), or elsewhere in this Code, the State Government may confer on any gazetted officer functioning as an Executive Magistrate, the powers of a Judicial Magistrate of the first class or of the second class or of a Metropolitan Magistrate to try all or any of the offences referred to in Chapter XXII A:

Provided that the conferment of such powers on an Executive Magistrate shall be regulated by rules framed in this behalf by the State Government in consultation with the High Court.

(3) The officer on whom the powers of Judicial Magistrate of the first class or, as the case may be, of the Metropolitan Magistrate are conferred under sub-section (2) shall be called Executive Magistrate of the first class and the officer on whom the powers of Judicial Magistrate of the second class are conferred under the said sub-section shall be called Executive Magistrate of the second class.”

3. *Insertion of new Chapter XXII A.*—After section 271 of the principal Act, the following Chapter shall be inserted, namely:—

“CHAPTER XXII A

Inquiries and trials by Executive Magistrates of First Class or of Second Class

271A. *Conferment of powers on Executive Magistrates of first class or of second class.*—Notwithstanding anything contained in this Code, the Executive Magistrate of the first class or of the second class on whom the powers of a Judicial Magistrate of the first class or of the second class or of a Metropolitan Magistrate are conferred under sub-section (2) of section 21 shall, to the exclusion of any other Magistrate, have power to try offences—

- (i) under Chapter VIII, Chapter X, Chapter XIV, Chapter XV and Chapter XXII of the Indian Penal Code (Central Act 45 of 1860);
- (ii) under the Goa, Daman and Diu Public Gambling Act, 1976 (Act 14 of 1976) or any other corresponding law in force in the State;
- (iii) under the Explosives Act, 1884 (Central Act 4 of 1884);
- (iv) under the Motor Vehicles Act, 1939 (Central Act 4 of 1939);
- (v) under the Arms Act, 1959 (Central Act 54 of 1959) and
- (vi) under the Prevention of Damages to Public Property Act, 1984 (Central Act 3 of 1984).

271B. *Special provision for purposes of section 271A.*—(1) Subject to the control of the State Government, the District Magistrate may, from time to time, define the local limits of the areas within which the Executive Magistrate of the first class or of the second class may exercise all or any of the powers with which he may be invested under section 271A.

(2) The District Magistrate may, from time to time, make rules or give special orders consistent with the Code as to the distribution of business among the Executive Magistrates of the first class and of the second class.

(3) If a person is accused of different offences committed in the course of the same transaction and such offences fall under section 271A and any offence other than the offence referred to in the said section, the Executive Magistrate of the first class or of the second class shall have no jurisdiction to try such person and such person shall be tried by a court having jurisdiction under this Code.

(4) Where, after taking cognizance of any offence, the Executive Magistrate of the first class or of the second class is of the opinion that the offence is not an offence falling under section 271A, he shall, notwithstanding that it has no jurisdiction to try such offence, transfer the case for trial of such offence to any court having jurisdiction under this Code and the court to which the case is transferred may proceed with the trial of the offence as if it has taken cognizance of the offence.

(5) Nothing in this Chapter shall apply to cases relating to any offence under this Chapter taken cognizance of by any court before the conferment of power on Executive Magistrates under sub-section (2) of section 21 and every such offence shall continue to be dealt with under this Code as if such conferment of power had not taken place.

(6) Where it is made to appear to a District Magistrate that an order under this sub-section is expedient for the ends of justice, he may order that any particular case be transferred from the court of one Executive Magistrate of the first class or of the second class to another such court.

(7) The District Magistrate, for the purpose of sub-section (6), may act either on the report of the court of the Executive Magistrate of the first class or of the second class, or on the application of a party interested, or on his own initiative:

Provided that where an application for the transfer of a case from the court of the Executive Magistrate of the first class or of the second class to another such court has been made to the Sessions Judge, no such application shall be made to the District Magistrate.

(8) The provisions of sub-sections (3), (4), (5), (6), (7), and (9) of section 407 shall apply in relation to an application to the District Magistrate for an order under sub-section (6) as they apply in relation to an application to the



High Court for an order under sub-section (1) of section 407, except that sub-section (7) of that section shall so apply as if for the words "one thousand rupees" occurring therein, the words "two hundred and fifty rupees" were substituted.

**271C. Powers and functions of Executive Magistrates of first class or of second class.**— Subject to the provisions contained in section 271B, the Executive Magistrate of the first class or of the second class shall, for the purpose of any inquiry or trial of any offence referred to in section 271A, have all the powers and functions exercisable by a Judicial Magistrate of the first class or of the second class and the provisions of this Code shall, *mutatis mutandis* apply to such Executive Magistrate of the first class or of the second class as they apply to a Judicial Magistrate of the first class or of the second class."

**4. Amendment of section 407.**— In section 407 of the principal Act, in sub-section (2), after the proviso, the following proviso shall be inserted, namely:—

"Provided further that no application shall lie to the High Court for the transfer of a case from the Court of one Executive Magistrate of the first class or of the second class to another such court in the same district, unless an application for such transfer has been made to the District Magistrate and rejected by him."

**5. Amendment of section 408.**— In section 408 of the principal Act, after sub-section (2), the following proviso shall be inserted, namely:—

"Provided that where an application for the transfer of a case from the court of the Executive Magistrate of the first class or of the second class to another such court has been made to the District Magistrate, no such application shall be made to the Sessions Judge."

#### Statement of Objects and Reasons

The Code of Criminal Procedure, 1973, which repealed the old Code of Criminal Procedure, 1898, brought about a complete separation of the Judiciary from the Executive on an uniform basis throughout the country. Under the new Code, the Executive Magistrates were not given powers to try criminal cases and award punishment of imprisonment. It has been felt that the new Code has led to erosion of the powers of Executive Magistrates, resulting in their facing difficulties in maintaining law and order effectively.

This Bill seeks to confer some powers on Executive Magistrates to try offences having a nexus with law and order and also to try some petty offences under the Indian Penal Code as well as offences under some specified laws.

#### Financial Memorandum

No additional financial implications are involved in this Bill.

#### Memorandum Regarding Delegated Legislation

Clause 2 of the Bill enables the Government to frame rules in consultation with the High Court to

regulate the conferment of power on the Executive Magistrate.

Also, in terms of sub-section (2) of section 271B as sought to be inserted by clause 3 of the Bill, the District Magistrate is empowered to make rules or give special orders consistent with the Code as to the distribution of business among the Executive Magistrates of the first class and of the second class.

This delegation is of normal character.

Panaji  
9th March, 1988.

P. R. Rane  
Chief Minister

Assembly Hall  
Panaji  
16th March, 1988.

M. M. NAIK  
Secretary to the Legislative  
Assembly of Goa

(Annexure to Bill No. 25 of 1988)

The Code of Criminal Procedure  
(Goa Amendment) Bill, 1988

.....  
The Code of Criminal Procedure, 1973 (Central Act 2 of 1974)  
.....

407 (2) The High Court may act either the report of the lower Court, or on the application of a party interested, or on its own initiative:

Provided that no application shall lie to the High Court for transferring a case from one criminal Court to another Criminal Court in the same sessions division, unless an application for such transfer has been made to the sessions Judge and rejected by him.

408 (1) Whenever it is made to appear to a sessions Judge that an order under this subsection is expedient for the ends of justice, he may order that any particular case be transferred from one Criminal Court to another Criminal Court in this sessions division.

(2) The sessions Judge may act either on the report of the lower Court, or on the application of a party interested, or on his own initiative.

Assembly Hall  
Panaji  
16th March, 1988.

M. M. Naik  
Secretary to the Legislative  
Assembly of Goa

LA/B/978/1988

Dt. 23/3/1988

The following Bill which was introduced in the Legislative Assembly of Goa on 23-3-88 is hereby published for general information in pursuance of the provisions of Rule-136 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

The Land Acquisition (Goa Amendment) Bill, 1988

(Bill No. 26 of 1988)

A  
BILL

further to amend the Land Acquisition Act, 1894.

Be it enacted by the Legislative Assembly of Goa in the Thirty-ninth Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Land Acquisition (Goa Amendment) Act, 1988.

(2) It shall come into force at once.

2. *Insertion of new sections.*— After section 3 of the Land Acquisition Act, 1894 (Central Act 1 of 1894), the following sections shall be added, namely:—

"3 — A. *Preliminary survey of lands and powers of officers to carry out survey.*— For the purpose of enabling the State Government to determine whether land in any locality is needed or is likely to be needed for any public purpose, it shall be lawful for any officer of the State Government in the Public Works Department, or any other officer either generally or specially authorised by the State Government in this behalf, as the case may be, —

- (i) to enter upon and survey and take levels of any land in such locality;
- (ii) to mark such levels;
- (iii) to do all other acts necessary to ascertain whether the land is adapted for such purpose; and
- (iv) where otherwise the survey cannot be completed and the levels cannot be taken, to cut down and clear away any part of any standing crop, fence or jungle:

Provided that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling house (unless with the consent of the occupier thereof), without previ-

ously giving such occupier at least seven days' notice in writing of his intention to do so.

"3 — B. *Payment for damage.*— The officer of the State Government in the Public Works Department, and any other officer so authorised shall, at the time of such entry, pay or tender payment of all necessary damage to be done as aforesaid, and, in case of dispute as to the sufficiency of the amount so paid or tendered; shall at once refer the dispute to the decision of the Collector or other Chief Revenue Officer of the district, and such decision shall be final."

#### Statement of Objects and Reasons

According to the Land Acquisition Act, the Officer can enter the property for taking levels or for obtaining any valuation after issue of Notification under section 4 of the Land Acquisition Act, 1894. This creates lot of difficulties and the present amendment seeks to obviate the difficulties so as to allow the Officers to make preliminary survey and take levels etc., before the issue of notification under section 4.

This Bill seeks to amend the Land Acquisition Act by insertion of new sections 3-A and 3-B.

#### Financial Memorandum

Section 3-B involves payment of compensation for the damages to be paid to the interested persons in the land acquisition cases. The compensation will vary from case to case.

Panaji  
15th March, 1988.

S. H. HAROON  
Minister for Revenue

Assembly Hall  
Panaji  
15th March, 1988.

M. M. NAIK  
Secretary to the Legislative  
Assembly of Goa